JURNAL AKTA
Volume 6 Issue 3, September 2019

The Legal Effects Of Deed Creation Of Probate Inheritance That Does Not Match With The Principle Of Absolute Section (A Case Study of Decision No. 539 / Pdt.G / 2012 / PN.Jkt.Bar Jo. Decision No. 477 / Pdt.G / 2014 / PT.DKI)

P. Roeslan Amiril Moekminin[1]

Abstract. This study aims to identify and analyze: 1) The legal consequences Deeds Wills made by or before a Notary, if contrary to the principle of absolute section; 2) How inheritance dispute settlement in accordance with the Civil Code; 3) Law of Evidence applied by judges in the dispute settlement deed Testament heritage as opposed to the absolute part Heirs according to the Civil Code in the Register of Case No. 539 / Pdt.G / 2012 / PN.Jkt.Bar Jo. Decision No. 477 / Pdt.G / 2014 / PT.DKI.
Based on the results of this research is that: 1) the Deed of wills that exceeds *Legitime portie* the Heirs of *Ab intestato* not immediately lead to the deed will be null and void or not legally binding, but still valid, as long as not canceled by the court decision; 2) Settlement of disputes of inheritance for the citizen who are not followers of Islam based on the provisions of inheritance as specified by the Civil Code; 3) At the Appellate Judges stated that the Deed of Wills number 15 made by Tjeng To Ho in front of Notary Mrs. Nani Susanti, SH is a legitimate and valuable, but for the sake of protecting the inheritance Heirs The *Ab intestato*, so the Judge court based on article 914 paragraph 3 stated that the heirs *Ab intestato* which include 7 persons each other have the part ¾ section, while the heirs *Ad testamento* got ¼ part left.
Keywords: Miraculous Deeds; *Legitime Portie;* Legal Effects.

1. Introduction

Inheritance law is the law governing what should happen to the assets of a person who died, regulate the transition of wealth left by a deceased person, as well as the consequences for the heirs.[2] Civil inheritance law in the Book of the Law of Civil Law, including in the field or the field of civil law. All branches of law, including in the field of civil law that have the same basic properties, among others, are set and there is no element of coercion, but for the civil inheritance law, even though it is located in the area of civil law, it turns out there is an element of compulsion in it. The element of compulsion in civil inheritance law, such as provisions granting an absolute right (*legitime portie*) to certain heirs upon a specific amount of inheritance or the provisions prohibiting the heir has made certain stipulations, such as donated part of his estate.[3]
Inheritance disputes as become the object of focus in scientific research dates back to the late Tjeng To Ho and Tan Mie Hoa who are spouses as well as their heirs, who have heirs: 1) Tsang Fung Leung; 2) The heirs Tjeng Hie Nio; 3) Linawati; 4) The heirs Nelawati; 5) Indrawati; 6) Herawati Suwagio; 7) Rostiati Cuandianto; 8) Iko Chandra. Before death, the Heir (elderly man) named Tjeng To Ho made Deeds Wills Notary with Wills No. 15 dated February 16, 1998, which contains all of the assets both movable or

[1] Advocat and Managing Partner in Legal Office PRAM & Partners, at Jl. Pulasaren No. 59 Pekalipan, Cirebon City, email: prampartners@gmail.com
[2] Syarif Surini Ahlan dan Nurul Elmiyah, 2005, *Hukum Kewarisan Perdata Barat*, Kencana, Jakarta, p. 11.
[3] Anasitus Amanat, 2009, *Membagi Warisan Berdasarkan Pasal-Pasal Hukum Perdata BW*, Raja Grafindo Persada, Jakarta, p. 1.

immovable objects given to the heirs named Iko Chandra. Based on Deed of Wills, after opening turned out to be two (2) parcels of land and building located in the street Pekalangan No. 12 Cirebon, appropriate proof of ownership SHM No. 163 and SHM No. 164, controlled by the other heirs named: Linawati; The heirs Nelawati; Indrawati; Herawati Suwagio; Rostiati Cuandianto. Due to the partial heir who mastered object inheritance is not willing to submit in both good and voluntarily, then the recipient will Iko Chandra then filed suit in the District Court of West Jakarta which is the jurisdiction of one of the addresses heirs named Indrawati, who reside in West Jakarta.
Based on the description above, in order to examine the legal issues that have been described, for the author takes the title of the study: "The Legal Effects Of Deed Creation of Probate Inheritance That Does Not Match With The Principle of Absolute Section (A Case Study of Decision No. 539 / Pdt.G / 2012 / PN.Jkt.Bar Jo. DECISION No. 477 / Pdt.G / 2014 / PT.DKI ".

Research methods

This research is a kind of normative. Source: consisting of primary legal materials: after the amendment of the 1945 Constitution, the Civil Code, Act No. 5 of 1960 About the Basic Regulation of the Basic Agrarian Act No. 2 of 2014 on the Amendment of the Act No. 30 of 2004 About Notary, Act No. 48 of 2009 concerning Judicial Authority and Court decision that has obtained permanent legal force; and secondary legal materials: books, journals, papers, opinion of the legal scholars, the subject matter of the study.
Data collection methods using literature study and interview techniques. Data Analysis Methods ie positive legal description, systematization of positive law, analysis of positive law; Interperatasi positive law and positive law Assess.

2. Results And Discussion

2.1. The legal consequences Deeds Wills made by or before a Notary, if contrary to the principles of Absolute Section (*Legitime portie*)

There are two ways to obtain the inheritance, namely 1) under the provisions of law (*wettelijk erfrecht*) or known as the heirs *ab intestato*; 2) based on a will or testament (*testamentair erfrecht*) or known as *ad testamento* heir.[4] Heirs who appeared in wills or *testamentair erfrecht* can be in two ways, namely through erfstelling or removal of the inheritance, which means that the appointment of one or more people become heirs to get most or all of the treasure peningggalan, while the designated person named testamentair erfgenaam, who then note into wills. While the second way, namely legaat (grant will), is granting the right to a person on the basis of a will (testament) of a special nature.
About *testamentair erfrecht* or heirs *ad testamento*, Article 874 of the Civil Code states that, "all the treasures of a deceased, belongs to all the heirs according to law, just against it with a will not have taken something legal provisions". The understanding of the will expressed in Article 875 of the Civil Code that, "testament as a certificate containing a statement about what he wished someone would happen after he died, and that her irrevocable".
In harmony with the provisions of Article 875 of the Civil Code, as a deed then wills must be made in writing to comply formilnya as a deed. The deed itself is divided into

[4] A. Pitlo, 1979, *Hukum Waris*, Intermasa, Jakarta, p. 112.

two, namely the deed under the hand and authentic act. However, the act referred to as a deed in the work of scientific research is a testament deed as authentic deed.
Regarding the authentic act, Article 1868 of the Civil Code gives the sense that, "authentic deed is a deed made in the form prescribed by law or before the competent public authority for the place of the deed was made". Referred to as the competent public authority in making authentic act in this case is a Notary Public.
An authentic deed must meet the following requirements:

- It shall be made by or before a public official;
- It shall be made in the form prescribed by the Act;
- Public officials by or before whom the deed was made, should have the authority to make the deed.

Authentic deed before a Notary is divided into two (2) types, namely: 1) The deed of Notary (*relaas*), and; 2) Deed before a Notary (*Partij*).[5] The strength of evidence the authentic act is perfect, because the deed was made by the competent authorities. From the beginning the authentic act has had the function of proof, so that it can be used as a legitimate instrument of proof at trial. In addition to the above three elements, authentic deed must also meet the three aspects of the strength of evidence. The strength of evidence an authentic act that is the strength of evidence outward, formal proof strength, and the strength of evidence material.[6]
The cause of the strength of evidence into a notarial deed deed under the hand or the deed is null and void because the notary has violated laws and regulations. There are nine (9) causes notary deed made by the notary has the strength of evidence as the deed under hand or deed null and void, that is because:

- Notary deed will not make the list in chronological order deed every month;
- Notaries are not recorded in the Repertorium delivery date will list at the end of each month;
- Deed made by the notary did not qualify, such as one or more of the parties under 18 years of age or no legal capacity, as well as the witnesses are not eligible;
- Deed made by the notary is not signed by the parties, witnesses and notaries;
- Notary to make changes to the substance of the deed without initialed or marked another endorsement by applicant, witnesses and a notary;
- Notarial deed changes are not made on the left side of the deed;
- Write-off of a notary deed is not initialed;
- The correction of the notarial deed is done not before applicant, witnesses and a notary;
- Notary making the contents of the notarial deed containing the stipulation or provision that gives something of rights and / or benefits for the notary and his family.[7]

As stated at the beginning of the discussion, each heir is free to determine or specify in the will he made about the number of treasures to be granted to one or several heirs. However, it will bring problems in the future for the heirs ab instestato. Because they are so close kinship with the testator, so that lawmakers consider inappropriate, if they do not receive anything at all. So that people do not easily override them, the law prohibits the grant or bequeath his lifetime his treasure to others with violating *legitime portie* of heirs *ab intestato* it.

[5] Habib Adjie, 2008, *Meneropong Khazanah Notaris dan PPAT Indonesia*, *Kumpulan Tulisan Tentang Notaris dan PPAT*, PT. Citra Aditya Bakti, Surabaya, p. 45.
[6] Salim H.S., 2018, *Peraturan Jabatan Notaris*, Cetakan Pertama, Sinar Grafika, Jakarta, p. 241.
[7] *Ibid*, p. 242.

Although the provision on absolute part (*legitime portie*) is coercive, but it is not in the public interest. Provisions exist for the sake of absolute part legitimaris and not in the public interest. Therefore, legitimaris can let rights are violated, where the case is closely connected with the idea that the violation of the *legitime portie* not result nietigheid (nullification by law), but merely *vernietigbaarheid* (can be requested for cancellation).

In addition, the deed of wills made by or before a notary which substantially deviate portie legitime provision for heirs legitimaris, excluding the nine forms of violations that could lead to an authentic deed proving the strength degraded to a deed under hand or become null and void. If a violation underlying the ninth form, then obviously it can be said that deviate testament deed *legitime portie* provision should not be construed be deed under hand or null and void.

At the level of practice, the Supreme Court (MA) making rules that an act will or deed of grant will is valid even contain violations of the *legitime portie* the legitimaris, all has not been canceled by the legitimaris who feel aggrieved over the deed, so that nature is no longer null and void but can be canceled. Thus the certificate remains valid as long as not be contested by the legitimaris.

2.2. How inheritance dispute resolution according to the Civil Code

Based on the principle of inheritance, that basically every heir entitled to do anything against his assets, including heritage to one or several heirs, either for part or all of its assets, then each heir is entitled to decide how to distribute wealth to their heirs. However, in fact, often there is a dispute of inheritance in the midst of the people of Indonesia, most of which must be resolved through the courts table.

Inheritance disputes to be addressed in this study is disputed east inheritance for foreign groups, especially ethnic Chinese, so that the rules will be used is the Civil Code. So that in case of dispute over inheritance, then simply refer to the provisions contained in the Civil Code.

Civil Code does not distinguish between the amount of the distribution of the estate to the heirs, whether male or female, whether born before or later, each has the right amount of the same section head for the sake of the head. Exceptions to heirs domiciled as a substitute heirs, then they inherit the stake for the sake of the stake. About who the expert is entitled heir, then the views from the nearest line of the testator. Speaking about the nearest line, the Civil Code have divided into 4 groups. The second group and so will not inherit if the heir in the first group were still alive, or in the case of the testator died without a chance to have a spouse and offspring.

The first group consists of the husband / wife, children, and generations of children as a substitute heirs. What if both the testator's marriage to have children, then the children of the second marriage should not be bigger than the children of the first marriage, or a maximum of 1/4 of the part of the child first. Provisions setting section heirs in the first group contained in Article 852, Article 852a Paragraph (1) and Article 852a Paragraph (2) of the Civil Code.

The second group consists of father / mother and their siblings and offspring heir. Each heir head for the sake of the head, except for the descendants of the testator's siblings, they inherit the stake for the sake of a stake, because it serves as a replacement heir of the testator's siblings. Section father / mother if there was one sibling is 1/3, if there are two or more siblings then the part of the father / mother is 1/4. If only there was one among fathers or mothers along one sibling, then those who live longest acquire part 1/2, or 1/3 obtained if there are two siblings, or obtain 1/4 if

there are three or more siblings, If the father / mother has died, the siblings inherit all property left by the testator.
The third group consisted of grandparents and so on, along with the family in a straight line upwards, both in-line and in-line one father same mother. The division of the estate in the third group to be made using kloving way first, namely that 1/2 part to the heirs in the line one father, and 1/2 part to the heirs of the same mother line. Provisions setting section heirs in the third group set out in Article 851, 853, 858 of the Civil Code.
The fourth group consists of parents heir brothers and all their descendants up to the sixth degree. Heirs of this fourth group included in the definition of family incest in the line deviates farther. The division of the estate in the fourth bracket must be done by kloving first, namely that 1/2 part to the heirs in the line one father, and 1/2 part to the heirs of the same mother line. Settings section heirs in the third group set out in Article 850, 858, and 861 of the Civil Code.
How inheritance dispute settlement as described above is an inheritance dispute resolution in general, in the absence of a will (testament). Wills, basically made to deviate the provisions of the division of the estate under the general rules, and the Civil Code allow for it, because it is basically the distribution of wealth is the realm of the absolute right of the testator, and to the heir is entitled to give more on its assets to one one or more heirs of the other heirs.
Probate can not be made by way of oral, but must be made in writing, either made by the testator itself before a notary (olografis) and made by a notary, so that it will be a form of authentic deed that has the strength of evidence is perfect. In making a will, the notary should have to pay attention legitime heirs ab portie intestato, so that the heirs *ab intestato* not lose rights. If a will is made beyond *legitime portie* heirs *ab intestato*, then part of the heirs *ad testamento* should be reduced, and give the amount of an essential part of the heirs *ab intestato* accordance with the provisions of Article 914 to Article 917 of the Civil Code, but just over the inheritance demanded by the heirs of the *ab intestato*.

2.3. Evidence law applied by the judge in the dispute settlement deed inheritance which contrary to Absolute Section (*Legitime portie*) of Heirs according to the Civil Code in the Register of Case No. 539 / Pdt.G / 2012 / PN.Jkt.Bar Jo. High Court Decision No. 477 / Pdt.G / 2014 / PT.DKI

Legal considerations the judges at the appellate level that becomes a basic consideration in passing sentence on the case are as follows:

- Consider, that the Panel of Judges of Appeal will tell whether the certificate will number 15 dated February 16, 1998 made by Tjeng To Ho confronted Mrs. Nani Susanti, SH, Notary in Cirebon / Participate Co-Defendant originally was lawful;
- Consider, that according to article 875 of the Civil Code stated: "As for what is called a will or testament is an act which, according to a statement about what is in his wanting will happen after he died and that her inalienable back again ";
- Consider that under Article 893 of the Civil Code mentioned "all wills are created as a result of forced trickery or deception is void;
- Consider, that the objections mentioned above, the will is void if the manufacturing is no coercion, trickery or deception;
- Consider, that the judges rate of Appeal disagreed with the legal considerations Judges first level on page 78 paragraph 3 which states as follows: "Considering,

that since the content of the deed of wills number 15 dated February 16, 1998 turned out to have been ruled out right heir of the other heirs, it is thus the deed of the will should be declared contrary to law and justice for heirs, and therefore, the deed will be declared no legal effect ".

- Consider, that under Article 896 of the Civil Code mentioned "everyone can make or benefit from wills something, unless they are in accordance with the provisions of this section, otherwise incompetent to it";
- Consider, that the provisions of Article 896 of the Civil Code the law allowed each person to make a will, so the writing alm. Tjeng To Ho made a will, it is not prohibited by law;
- Consider, that during the trial, the compa originally Defendants in Conpension / Plaintiffs in reconpension can not prove that as late. Tjeng To Ho made a will before the original Co-Defendant also, no coercion, fraud or deception resulting in the will is null and void;
- Consider, that based on all the considerations mentioned above, the opinion, the Panel of Judges of Appeal, the deed will number 15 dated February 16, 1998 is legally valid comparison to the original so that the petition lawsuit plaintiff in Conpension / Defendant in reconpension number 2 should be granted;
- Consider, that though the will number 15 dated February 16, 1998 as proof of P.10 is legitimate, but the comparison to the original plaintiffs in Conpension / Defendant in reconpension not have the right to all of the relics treasures late. Tjeng To Ho ie two plots of land and building located in the street Pekalangan 12 Cirebon, according SHM No. 163, Measure Letter No. 263 dated 30 September 1980 and the spacious 391 m² SHM No. 164, Letter Measure No. 264 of September 30, 1980, 1,194 m² area, with most of the following reasons:
  - Consider, that Article 913 civil stated: "Part absolute or *legitime portie* is a part of the legacy that should be given to the beneficiaries in a straight line according to the laws against part of the legacy that should be given to the beneficiaries in a straight line under the Act, against which part of the deceased was not allowed to set a good thing as giving between the living and the will;
  - Consider, that Article 914 Paragraph (3) of the Civil Code says: "The three or more child left behind, then three perempatlah the essential part of what was due each of them shall inherit it, in inheritance;
  - Consider, that although the deceased. Tjeng To Ho had given his property to the plaintiffs in the original comparison Conpension / Defendant in reconpension through wills, but according to the provisions of article 913 of the Civil Code, there is an absolute part of the property left by the deceased. Tjeng To Ho should be given to the heirs in a straight line are all children of the deceased Tjeng To Ho;
  - Consider, due to the fact that the trial of the late child. Tjeng To Ho and Tan Mie Hoa is 8 (eight), and based on the provisions of Article 914 Paragraph (3) of the Civil Code, section alm absolute treasures. Tjeng To Ho should be given to his heir is equal to 3/4 (three quarters) of all the treasures late. Tjeng To Ho, that legacy alm. Tjeng To Ho who became part of the original plaintiffs in comparison Conpension / Defendant in reconpension is equal to 1/4 (one quarter) of two plots of land and buildings SHM No. 163 and No. 164 of the above;
  - Consider, that in consideration of the above-mentioned opinion, Judges of Appeal Petition original lawsuit plaintiff in Conpension Appellant / Defendant in reconpension in point 4 must be granted in part.

- Consider, that as there was evidence compa III, IV, V, VI, VII in Conpension / Plaintiffs I, II, III, IV, V in reconpension have mastered treasures Alm. Tjeng To Ho which is part-owned Comparative original plaintiff in Conpension / Defendant in reconpension without permission of Comparative originally Plaintiff Conpension / Defendant in reconpension, the act compa III, IV, V, VI, VII originally Defendant III, IV, V, VI, VII in Conpension / Plaintiffs I, II, III, IV, V in reconpension is an act against the law, so that the original petition lawsuit plaintiff in Conpension Appellant / Defendant in reconpension number 5 should be granted;
- Consider, that as there was evidence the original plaintiff in Conpension Appellant / Defendant in reconpension belonged to 1/4 (one quarter) of the property left by the deceased. Tjeng To Ho are two plots of land and buildings SHM No. 163 and No. 164, located on the street Pekalangan No. 12 Cirebon controlled by the compa originally Defendants VI and VII in Conpension Defendants / Plaintiffs in reconpension be put to cede 1/4 (one quarter) that became the property of the original plaintiff in Conpension Appellant / Defendant in reconpension empty to Benchmark original plaintiff in Conpension / Defendant in reconpension, so that opinion, the Panel of Judges of Appeal, a petition of Plaintiff in the lawsuit originally Conpension Appellant / Defendant in reconpension on points 6 and 7 shall be granted;
- Consider, that the application for the original plaintiff in Conpension Appellant / Defendant in reconpension to punish the Defendant original compa VI and VII Defendants / Plaintiffs in reconpension to pay damages to the plaintiff in the original Comparative Conpension / Defendant in reconpension, because during the trial Appellant originally the plaintiff in Conpension / Defendant in reconpension unable to prove their argument, then according to the Panel of Judges of Appeal saving petition plaintiffs in the original lawsuit Conpension Appellant / Defendant in reconpension in point 8 must be rejected;
- Consider, that's a request that compa III, IV, V, VI, VII / Defendant III, IV, V, VI, VII in Conpension / Plaintiffs I, II, III, IV, V in reconpension and compa I, II originally compa Defendant I, Defendant II in Conpension / Co-compa I, II compa Participate in reconpension forcibly sentenced to pay Rp. 1.000.000.000, - (one billion rupiah) every day negligent to do this decision, then the opinion, the Panel of Judges of Appeal of the above amount is too large, which is a fair amount of Rp. 500.000, - (five hundred thousand rupiahs), so that opinion, the Panel of Judges of Appeal petition original lawsuit plaintiff in Conpension Appellant / Defendant in reconpension in point 9 shall be granted;
- Consider, that therefore in this case not placed guarantee, then the petition of Plaintiff in the lawsuit originally Conpension Appellant / Defendant in reconpension must be rejected;
- Consider, that the petition of the original plaintiff in the lawsuit Conpension Appellant / Defendant in reconpension who ask that this court decision could be implemented earlier although there Verzet, Appeal, Appeal or judicial review, and therefore not in accordance with the provisions of Article 180 Paragraph (1) HIR, then this lawsuit petition (at number 12) to be rejected.

In reconpension:

- Consider, that the intent and purpose of the lawsuit compa III, IV, V, VI, VII originally Defendant III, IV, V, VI, VII in Conpension / Plaintiffs I, II, III, IV, V in is like unraveling reconpension above;

- Consider, that in essence the lawsuit compa III, IV, V, VI, VII, originally Defendant III, IV, V, VI, VII in Conpension / Plaintiffs I, II, III, IV, V, in reconpension are as follows:
  - Treasure legacy of the late couple Tjeng To Ho and Tan Mie Hoa Form:
    - Land and buildings located on the street Pekalangan 12 Cirebon, according SHM No. 163, Measure letter No. 263 of September 30, 1980 with 391 m² area;
    - Land and building located at The street Pekalangan No. 12 Cirebon, according SHM No. 164, No. 264 Measure letter dated 30 September 1980 with an area of 1,194 m²;
    - Land and buildings located on the street Karanggetas No. 205 Cirebon known as Mas Crown Stores is an inheritance that has not been shared inheritance to his heir.
  - That the Wills Deed No. 15 dated February 16, 1998 before a Notary Mrs. Nani Susanti, SH is null and void.
- Consider, that all legal considerations in conpension considered to have been included and are listed in this reconpension;
- Consider, that has been considered in Conpension, that compa III, IV, V, VI, VII originally Defendant III, IV, V, VI, VII in Conpension / Plaintiffs I, II, III, IV, V in reconpension, originally Plaintiff Appellant in Conpension / defendant in reconpension, compa I originally the first defendant in Conpension / Co-compa I in the reconpension, compa II was originally the second defendant in Conpension / Co-compa II in reconpension are the heirs of the husband and wife Tjeng to Ho and Tan Noodle Hoa, so petitum lawsuit on compa III, IV, V, VI, VII originally Defendant III, IV, V, VI, VII in Conpension / Plaintiffs I, II, III, IV, V in reconpension in point 3 must be granted.

The judges at the appellate level in the suit was first going to test the validity of the deed of wills that becomes the object of a lawsuit, as well as other consideration by the judges at the first level. To test this, the judges at the appellate level into account Article 875 of the Civil Code, which basically states that a will is the last will of the testator and the heir to the above will be able to pull back. Therefore, when before the deed will number 15 has been older then the other will be canceled because of the deed testament testator number 15 states repeal any existing wills or have been made before the deed will number 15.

The judges at the appellate level using Article 893 of the Civil Code, which reads, "all wills were made as a result of force, trickery or deception, is canceled", and thereof not found any element of a result of coercion, fraud or deception in the making of a will that can lead to nullification (*nietigheid*) on the deed will number 15. in addition, the deed will number 15 itself is made in the form of an authentic deed made before Mrs. Nani Susanti, SH, Notary in Cirebon, so that the deed will number 15 has met the authentic nature as a deed, therefore, the judges concluded that the certificate will number 15 dated February 16, 1998 is legally valid.

The judges at the appellate level is also testing related skills of the testator and the receiver will through the provisions of Article 896 of the Civil Code. Both Tjeng To Ho as the testator, and Tjeng Kwan Hoa or Iko Chandra as the recipient will is capable of doing a legal act, so that the judges concluded not found reason to declare Deeds Wills number 15 is null and void and may not have the force of law binding.

In order to determine the *legitime portie* of each of the Defendants, in its legal considerations Judges cite Article 914 paragraph All 3 of the Civil Code, this is because the heirs in a straight line to the bottom of Tjeng To Ho and Tan Mie Hoa amounted to

more than 3 people. Thus, other heirs or in this case the Defendants each get 3/4 of the legacy that is written in the deed will number 15. While testamentair heir / heirs *ad testamento* or in this case the Plaintiff, gained 1 / 4 part thereof. What has been considered by the judges at the appellate level in the decision, which was later reduced portions (inkorting) of the heirs *ad testamento* / Plaintiff as the contents of the Deed of Wills number 15, with reference to the provisions of Article 920 of the Civil Code.

3. Closing

3.1. Conclusion

Based on the description and discussion of research results can be concluded as follows:

- The legal consequences deed of wills that exceeds *legitime portie* the Heirs of *Ab intestato* not immediately lead to the deed of the will null and void or not legally binding, but still valid, as long as not canceled by the decision of the court, through a lawsuit filed by the Heir *Ab intestato* who feel aggrieved;
- How to dispute the beneficiary for citizens who are subject to the Civil Code, must be based on the provisions regulating the inheritance contained in the Civil Code, where there are four (4) categories heir therein, provided technical arrangement division as provided for by Article 852 to Article 861 of the Civil Code's provisions inheritance in general;
- Rules of evidence adopted by the judges In the Appellate accordance with the principle of legal certainty, with reference to the Civil Code and the Law on Judicial Power as the basis for the authority to examine adjudicate disputes of inheritance, stating that the certificate will number 15 dated February 16, 1998 made by Tjeng To Ho in front of Notary Mrs. Nani Susanti, SH is a legitimate and valuable by basing on Article 875, Article 893 and Article 896 of the Civil Code. However, in order to protect also the inheritance Heirs The *Ab intestato* / Defendants / The compa, then the judges by relying on Article 914 Paragraph 3 of the Civil Code states All Heirs The *Ab intestato* / Defendants / The compa which amounted to 7 people each each entitled to 3/4 of the estate demanded,

3.2. Suggestion

- It is expected that joint executive institution legislature may soon alter or replace Civil Code or UUJN, specifically revise the regulation on the law of inheritance;
- Expected to be established legislation, either in law or its implementation regulations, which specifically regulates the grant and / or grant probate;
- For Notary expected more thorough, careful and cautious and do everything possible to seek the material truth to every person who wanted to make a deed of wills.

4. References

[1] Syarif Surini Ahlan and Nurul Elmiyah, 2005, *Hukum Kewarisan Perdata Barat*, Kencana, Jakarta.
[2] Anasitus Amanat, 2009, *Membagi Warisan Berdasarkan Pasal-Pasal Hukum Perdata BW*, Raja Grafindo Persada, Jakarta.
[3] A. Pitlo, 1979, Hukum Waris, Intermasa, Jakarta.

[4] Habib Adjie, 2008, *Meneropong Khazanah Notaris dan PPAT Indonesia*, *Kumpulan Tulisan Tentang Notaris dan PPAT*, PT. Citra Aditya Bakti, Surabaya.
[5] Salim H.S., 2018, Peraturan Jabatan Notaris, Cetakan Pertama, Sinar Grafika, Jakarta.
[6] Code of Civil law, *Statute* 1847 Number 23.
[7] Act No. 2 of 2014 on the Amendment of Act No. 30 of 2004 concerning Notary, State Gazette 2014 No. 3.
[8] Act No. 48 of 2009 concerning Judicial Authority, State Gazette No. 209 157.
[9] Decision of West Jakarta District Court Register Number Case 539 / Pdt.G / 2012 / PN.Jkt.Bar dated September 26, 2012.
[10] Decision of Jakarta High Court to Register Case No. 477 / Pdt.G / 2014 / PT.DKI dated September 26, 2014.